

1 HOUSE BILL NO. 490

2 INTRODUCED BY S. KERNS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LICENSURE REQUIREMENTS FOR PROFESSIONS
5 UNDER THE BOARD OF BEHAVIORAL HEALTH; ALLOWING LICENSURE OF INDIVIDUALS WITH
6 EXPERIENCE AND NO DISCIPLINE IN OTHER JURISDICTIONS FOR LICENSED CLINICAL SOCIAL
7 WORKERS, LICENSED BACCALAUREATE SOCIAL WORKERS, LICENSED MASTER'S SOCIAL
8 WORKERS, LICENSED CLINICAL PROFESSIONAL COUNSELORS, LICENSED ADDICTION
9 COUNSELORS, AND LICENSED MARRIAGE AND FAMILY THERAPISTS; PROVIDING RULEMAKING
10 AUTHORITY; AMENDING SECTIONS 37-22-301, 37-22-307, 37-22-308, 37-22-313, 37-23-202, 37-35-102,
11 37-35-202, AND 37-37-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 **Section 1.** Section 37-22-301, MCA, is amended to read:

16 **"37-22-301. License requirements -- rulemaking -- exemptions.** (1) An applicant to be a licensed
17 clinical social worker:

18 (a) must have a doctorate or master's degree in social work from a program accredited by the council
19 on social work education or approved by the board; and

20 (b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and
21 completed at least 24 months of supervised post-master's degree work experience in psychotherapy, which
22 must have included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client
23 contact, within the past 5 years.

24 (2) After completing the required supervised work experience as a social worker licensure candidate,
25 the applicant shall:

26 (a) provide the board with three letters of reference from professionals licensed by the board or
27 academic professors who have knowledge of the applicant's professional performance;

28 (b) satisfactorily complete an examination prescribed by the board. An applicant who fails the

1 examination may reapply to take the examination and may continue as a social worker licensure candidate,
2 subject to the terms set by the board.

3 (c) submit a completed application required by the board and the application fee prescribed by the
4 board.

5 (3) A licensed clinical social worker:

6 (a) is subject to the social work ethical standards adopted under 37-22-201;

7 (b) may engage in independent practice, as defined by the board, upon receiving a license; and

8 (c) may use the initials "LSW" or "LCSW" for "licensed social worker" or "licensed clinical social
9 worker".

10 (4) ~~An applicant is exempt from the examination requirement in subsection (2)(b) if the applicant:~~

11 ~~(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of
12 the United States under laws that have substantially the same requirements as this chapter; and~~

13 ~~(b) has passed an examination similar to that required by the board.~~ (a) The board shall license a
14 person as a licensed clinical social worker if the person pays the prescribed fees and submits evidence that the
15 person:

16 (i) is licensed in good standing in another jurisdiction that has a disciplinary process as part of its
17 regulatory structure;

18 (ii) is not subject to pending criminal or administrative charges related to unprofessional conduct or
19 impairment; and

20 (iii) has not been administratively disciplined for unprofessional conduct or impairment in any
21 jurisdiction within the 7 years immediately preceding application in the state.

22 (b) The provisions of subsection (1)(b) do not apply to a person licensed under this subsection (4).

23 (c) A person licensed under this subsection (4) is not required to pass the prescribed examination as
24 provided in subsection (2)(b).

25 (5) As a prerequisite to the issuance of a license, the board shall require the applicant to submit
26 fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of
27 investigation as provided in 37-1-307. The board may require a criminal background check of applicants and
28 determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

1 (6) The board shall adopt rules to implement this section."

2

3 **Section 2.** Section 37-22-307, MCA, is amended to read:

4 **"37-22-307. Licensed baccalaureate social worker requirements -- exemption -- rulemaking. (1)**

5 An applicant to be a licensed baccalaureate social worker:

6 (a) must have a bachelor's degree in social work from a program accredited by the council on social
7 work education or a program approved by the board by rule; and

8 (b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and
9 completed supervised work experience as specified in the training and supervision plan submitted to the board
10 and approved by the board. Some of the required hours must be in direct client contact.

11 (2) After completing the required supervised work experience as a social worker licensure candidate,
12 the applicant shall:

13 (a) provide the board with three letters of reference from professionals licensed by the board or
14 academic professors who have knowledge of the applicant's professional performance;

15 (b) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails the
16 examination may reapply to take the examination and may continue as a social worker licensure candidate,
17 subject to the terms set by the board; and;

18 (c) submit a completed application required by the board and the application fee prescribed by the
19 board; and;

20 ~~(d) submit fingerprints for the purpose of fingerprint checks as provided in 37-1-307. The board may~~
21 ~~require a criminal background check of applicants and determine the suitability for licensure as provided in 37-~~
22 ~~1-201 through 37-1-205 and 37-1-307.~~

23 (3) A licensed baccalaureate social worker:

24 (a) is subject to the social work ethical standards adopted under 37-22-201;

25 (b) may engage in social work activities as provided in 37-22-102(5)(b) through (5)(g);

26 (c) may engage in practice, as defined by the board, upon receiving a license; and

27 (d) may use the initials "LBSW" for "licensed baccalaureate social worker".

28 (4) ~~An applicant is exempt from the examination requirement in subsection (2)(c) if the applicant:~~

1 ~~(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of~~
2 ~~the United States under laws that have substantially the same requirements as this chapter; and~~

3 ~~(b) has passed an examination similar to that required by the board.~~ (a) The board shall license a
4 person as a licensed baccalaureate social worker if the person pays the prescribed fees and submits evidence
5 that the person:

6 (i) is licensed in good standing in another jurisdiction that has a disciplinary process as part of its
7 regulatory structure;

8 (ii) is not subject to pending criminal or administrative charges related to unprofessional conduct or
9 impairment; and

10 (iii) has not been administratively disciplined for unprofessional conduct or impairment in any
11 jurisdiction within the 7 years immediately preceding application in the state.

12 (b) The provisions of subsection (1)(b) do not apply to a person licensed under this subsection (4).

13 (c) A person licensed under this subsection (4) is not required to pass the prescribed exam as
14 provided in subsection (2)(b).

15 (5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable
16 work and education experience as provided in subsection (1) are exempt from examination procedures
17 provided in subsection (2)(b) and may be licensed under this section.

18 ~~(6) The board may require a criminal background check of applicants and shall adopt rules to~~
19 ~~implement this section.~~ As a prerequisite to the issuance of a license, the board shall require the applicant to
20 submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal
21 bureau of investigation as provided in 37-1-307. The board may require a criminal background check of
22 applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

23 (7) The board shall adopt rules to implement this section."

24

25 **Section 3.** Section 37-22-308, MCA, is amended to read:

26 **"37-22-308. Licensed master's social worker requirements -- rulemaking -- exemption.** (1) An
27 applicant to be a licensed master's social worker:

28 (a) must have a master's degree in social work from a program accredited by the council on social

1 work education or a program approved by the board by rule; and

2 (b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and
 3 completed supervised work experience as specified in the training and supervision plan submitted to the board
 4 and approved by the board. Some of the required hours must be in direct client contact.

5 (2) After completing the required supervised work experience as a social worker licensure candidate,
 6 the applicant shall:

7 (a) provide the board with three letters of reference from professionals licensed by the board or
 8 academic professors who have knowledge of the applicant's professional performance;

9 (b) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails the
 10 examination may reapply to take the examination and may continue as a social worker licensure candidate,
 11 subject to the terms set by the board; and

12 (c) submit a completed application required by the board and the application fee prescribed by the
 13 board by rule; and

14 ~~(d) submit fingerprints for the purpose of fingerprint checks as provided in 37-1-307. The board may~~
 15 ~~require a criminal background check of applicants and determine the suitability for licensure as provided in 37-~~
 16 ~~1-201 through 37-1-205 and 37-1-307.~~

17 (3) A licensed master's social worker:

18 (a) is subject to the social work ethical standards adopted under 37-22-201;

19 (b) may engage in social work activities as provided in 37-22-102(5)(b) through (5)(g);

20 (c) may engage in practice, as defined by the board, upon receiving a license; and

21 (d) may use the initials "LMSW" for "licensed master's social worker".

22 ~~(4) An applicant is exempt from the examination requirement in subsection (2)(c) if the applicant:~~

23 ~~(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of~~
 24 ~~the United States under laws that have substantially the same requirements as this chapter; and~~

25 ~~(b) has passed an examination similar to that required by the board. The board shall license a person~~
 26 ~~as a licensed master's social worker if the person pays the prescribed fees and submits evidence that the~~
 27 ~~person:~~

28 (i) is licensed in good standing in another jurisdiction that has a disciplinary process as part of its

1 regulatory structure;

2 (ii) is not subject to pending criminal or administrative charges related to unprofessional conduct or
3 impairment; and

4 (iii) has not been administratively disciplined for unprofessional conduct or impairment in any
5 jurisdiction within the 7 years immediately preceding application in the state.

6 (b) The provisions of subsection (1)(b) do not apply to a person licensed under this subsection (4).

7 (c) A person licensed under this subsection (4) is not required to pass the prescribed exam as
8 provided in subsection (2)(b).

9 (5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable
10 work and education experience as provided in subsection (1) are exempt from examination procedures
11 provided in subsection (2)(b) and may be licensed under this section.

12 ~~(6) The board may require a criminal background check of applicants and shall adopt rules to~~
13 ~~implement this section.~~ As a prerequisite to the issuance of a license, the board shall require the applicant to
14 submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal
15 bureau of investigation as provided in 37-1-307. The board may require a criminal background check of
16 applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

17 (7) The board shall adopt rules to implement this section."

18

19 **Section 4.** Section 37-22-313, MCA, is amended to read:

20 **"37-22-313. Social worker licensure candidate -- registration requirements -- renewal --**

21 **standards.** (1) A person who has completed the education required for licensure under 37-22-301, 37-22-307,
22 or 37-22-308 but who has not completed the supervised work experience required for licensure shall register as
23 a social worker licensure candidate in order to engage in social work and earn supervised work experience
24 hours in this state.

25 (2) To register, the person shall submit:

26 (a) the application and fee required by the board;

27 (b) proof of completion of the education requirement;

28 (c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the

1 federal bureau of investigation as provided in 37-1-307;

2 (d) proof of good moral character; and

3 (e) a training and supervision plan that meets the requirements set by the board.

4 (3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may
5 engage in social work under the conditions set by the board and use the title of "social worker licensure
6 candidate" that is appropriate to the applicant's proposed level of licensure.

7 (4) A person shall register annually as a social worker licensure candidate. The board may limit the
8 number of years that a person may act as a social worker licensure candidate.

9 (5) A social worker licensure candidate shall conform to the standards of conduct applicable to all
10 licensees.

11 (6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other
12 conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's
13 authorization to act as a social worker licensure candidate.

14 (7) The board may:

15 (a) deny a license or issue a probationary license to an applicant for licensure based on the
16 applicant's conduct as a social worker licensure candidate; and

17 (b) determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

18 (8) This section does not apply to a person licensed under 37-22-301(4), 37-22-307(4), or 37-22-
19 308(4)."

20

21 **Section 5.** Section 37-23-202, MCA, is amended to read:

22 **"37-23-202. Licensure requirements.** (1) An applicant for licensure must have satisfactorily:

23 (a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6
24 semester hours of which were earned in an advanced counseling practicum that resulted in a graduate degree
25 from an institution accredited to offer a graduate program in counseling;

26 (b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or
27 licensed member of an allied mental health profession, at least half of which was postdegree. The applicant
28 must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

1 (c) passed an examination prepared and administered by:

2 (i) the national board of certified counselors; or

3 (ii) the national academy of certified clinical mental health counselors; and

4 (d) completed an application.

5 (2) The board shall provide by rule for licensure of a person who possesses a graduate degree that
6 consists of a minimum of 45 semester hours primarily related to counseling and that is from an institution
7 accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours
8 necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a
9 period of 5 years.

10 (3) The board shall license a person as a licensed clinical professional counselor if the person pays
11 the prescribed fees and submits evidence that the person:

12 (i) is licensed in good standing in another jurisdiction that has a disciplinary process as part of its
13 regulatory structure;

14 (ii) is not subject to pending criminal or administrative charges related to unprofessional conduct or
15 impairment; and

16 (iii) has not been administratively disciplined for unprofessional conduct or impairment in any
17 jurisdiction within the 7 years immediately preceding application in the state.

18 (b) A person licensed under this subsection (3) is not required to pass the prescribed exam as
19 provided in subsection (1)(c).

20 ~~(3)~~(4) As a prerequisite to the issuance of a license, the board shall require the applicant to submit
21 fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of
22 investigation as provided in 37-1-307.

23 ~~(4)~~(5) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant
24 has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the
25 public trust, and if the board determines that the applicant is not, the license may be denied."
26

27 **Section 6.** Section 37-35-102, MCA, is amended to read:

28 **"37-35-102. Definitions.** As used in this chapter, the following definitions apply:

1 (1) "Accredited college or university" means a college or university accredited by a regional or
2 national accrediting association for institutions of higher learning.

3 (2) "Addiction" means the condition or state in which an individual is physiologically or psychologically
4 dependent upon alcohol or other drugs. The term includes chemical dependency as defined in 53-24-103.

5 (3) "Addiction counselor licensure candidate" means a person who is registered pursuant to ~~37-35-~~
6 ~~202(5)~~ 37-35-202(6) to engage in addiction counseling and earn supervised work experience necessary for
7 licensure.

8 (4) "Board" means the board of behavioral health provided for in 2-15-1744.

9 (5) "Licensed addiction counselor" means a person who has the knowledge and skill necessary to
10 provide the therapeutic process of addiction and gambling dependence impulse control disorder counseling and
11 who is licensed under the provisions of this chapter."
12

13 **Section 7.** Section 37-35-202, MCA, is amended to read:

14 **"37-35-202. Licensure and registration requirements -- examination -- fees -- fingerprint check.**

15 (1) To be eligible for licensure as a licensed addiction counselor, the applicant shall submit an application fee in
16 an amount established by the board by rule and a written application on a form provided by the board that
17 demonstrates that the applicant has completed the eligibility requirements and competency standards as
18 defined by board rule.

19 (2) A person may apply for licensure as a licensed addiction counselor if the person has:

20 (a) received a baccalaureate or advanced degree in alcohol and drug studies, psychology, sociology,
21 social work, or counseling, or a comparable degree from an accredited college or university; or

22 (b) received an associate of arts degree in alcohol and drug studies, addiction, or substance abuse
23 from an accredited institution.

24 (3) Prior to becoming eligible to begin the examination process, each person shall complete
25 supervised work experience in an addiction treatment program as defined by the board, in a program approved
26 by the board, or in a similar program recognized under the laws of another state.

27 (4) Each applicant shall successfully complete a competency examination, in writing only, as defined
28 by rules adopted by the board.

1 (5) (a) The board shall license a person as a licensed addiction counselor if the person pays the
 2 prescribed fees and submits evidence that the person:

3 (i) is licensed in good standing in another jurisdiction that has a disciplinary process as part of its
 4 regulatory structure;

5 (ii) is not subject to pending criminal or administrative charges related to unprofessional conduct or
 6 impairment; and

7 (iii) has not been administratively disciplined for unprofessional conduct or impairment in any
 8 jurisdiction within the 7 years immediately preceding application in the state.

9 (b) A person licensed under this subsection (5) is not required to pass the prescribed exam as
 10 provided in subsection (4).

11 ~~(5)(6)~~ (a) Except as provided in subsections (5), ~~(5) (6)~~(d), and ~~(6) (7)~~, an applicant who has
 12 completed the requirements of subsection (2) but has not completed the required supervised work experience
 13 may apply for registration as an addiction counselor licensure candidate.

14 (b) An application for registration as an addiction counselor licensure candidate must be approved if it
 15 is determined that:

16 (i) a complete application approved by the board has been submitted;

17 (ii) there is no legal or disciplinary action against the applicant in this or any other state;

18 (iii) the applicant for registration as an addiction counselor licensure candidate may only function under
 19 the supervision of a supervisor who is trained in addiction counseling or a related field as defined by rule and
 20 who has an active license in good standing in Montana or any other state; and

21 (iv) the applicant has completed all educational requirements as prescribed in subsection (2)(a) or
 22 (2)(b).

23 (c) A person registered as an addiction counselor licensure candidate shall register annually until the
 24 person becomes a licensed addiction counselor. The board may limit the number of years that a person may
 25 act as an addiction counselor licensure candidate.

26 (d) A student is not required to register as an addiction counselor licensure candidate.

27 ~~(6)(7)~~ The provisions of subsection ~~(5) (6)~~ do not apply until the board has adopted rules
 28 implementing this section. The rules must provide for a waiver of the provisions of subsection ~~(5) (6)~~ for a

1 person who is engaged in a supervised work experience prior to the adoption of the rules.

2 ~~(7)(8)~~ (a) As a prerequisite to the issuance of a license ~~and registration as an addiction counselor~~
 3 ~~license candidate~~, the board shall require an applicant to submit fingerprints for the purpose of fingerprint
 4 checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

5 (b) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has
 6 the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public
 7 trust and if the board determines that the applicant is not, the license may be denied.

8 ~~(8)(9)~~ A person holding a license to practice as a licensed addiction counselor in this state may use
 9 the title "licensed addiction counselor".

10 ~~(9)(10)~~ For the purposes of this section, "comparable degree" means a degree with accredited college
 11 course work, of which 6 credit hours must be in human behavior, sociology, psychology, or a similar emphasis,
 12 3 credit hours must be in psychopathology or course work exploring patterns and courses of abnormal or
 13 deviant behavior, and 9 credit hours must be in counseling. For the 9 credit hours in counseling, 6 credit hours
 14 must be in group counseling and 3 credit hours must be in the theory of counseling. The credit hours specified
 15 in this subsection may be obtained in an associate or master's degree program if the applicant does not have a
 16 qualifying baccalaureate degree."

17

18 **Section 8.** Section 37-37-201, MCA, is amended to read:

19 **"37-37-201. License requirements -- exemptions.** (1) An applicant for a license shall pay an
 20 application fee set by the board by rule. The board may provide a separate, combined fee for persons licensed
 21 by the board holding dual licenses. An applicant for a license under this section shall also complete an
 22 application on a form provided by the department and provide documentation to the board that the applicant:

23 (a) (i) has a master's degree or a doctoral degree in marriage and family therapy from a recognized
 24 educational institution or a degree from a program accredited by the commission on accreditation for marriage
 25 and family therapy education; or

26 (ii) has a graduate degree in an allied field from a recognized educational institution and graduate level
 27 work that the board determines to be the equivalent of a master's degree in marriage and family therapy or
 28 marriage and family counseling;

1 (b) has successfully passed an examination prescribed by the board;

2 (c) has worked under the direct supervision of a qualified supervisor for at least 3,000 hours, including
3 1,000 hours of face-to-face client contact in the practice of marriage and family therapy, of which up to 500
4 hours may be accumulated while achieving the educational credentials listed in subsection (1)(a); and

5 (d) is of good moral character. Being of good moral character includes in its meaning that the
6 applicant has not been convicted by a court of competent jurisdiction of a crime described by board rule as
7 being of a nature that renders the applicant unfit to practice marriage and family therapy.

8 (2) As a prerequisite to the issuance of a license, the board shall require the applicant to submit
9 fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of
10 investigation as provided in 37-1-307.

11 (3) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has
12 the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public
13 trust, and if the board determines that the applicant is not, the license may be denied.

14 (4) An applicant is exempt from the examination requirement in subsection (1)(b) if the board is
15 satisfied that:

16 ~~(a) the applicant is licensed, certified, or registered under the laws of a state or territory of the United~~
17 ~~States that imposes substantially the same requirements as this chapter and has passed an examination~~
18 ~~similar to that required by the board; or~~

19 ~~(b) the applicant is licensed as a clinical social worker under Title 37, chapter 22, or as a clinical~~
20 ~~professional counselor under Title 37, chapter 23, and has practiced marriage and family therapy within the~~
21 ~~state for a period prescribed by the board.~~

22 (5) (a) The board shall license a person as a licensed marriage and family therapist if the person
23 pays the prescribed fees and submits evidence that the person:

24 (i) is licensed in good standing in another jurisdiction that has a disciplinary process as part of its
25 regulatory structure;

26 (ii) is not subject to pending criminal or administrative charges related to unprofessional conduct or
27 impairment; and

28 (iii) has not been administratively disciplined for unprofessional conduct or impairment in any

1 jurisdiction within the 7 years immediately preceding application in the state.

2 (b) A person licensed under this subsection (5) is not required to pass the prescribed exam as
3 provided in subsection (1)(b).

4 ~~(5)~~(6) A person is exempt from licensure as a marriage and family therapist if the person practices
5 marriage and family therapy:

6 (a) under qualified supervision in a training institution or facility or other supervisory arrangements
7 approved by the board and uses the title of intern;

8 (b) as part of the person's duties as a member of the clergy or priesthood; or

9 (c) while registered as a social worker licensure candidate, professional counselor licensure
10 candidate, or marriage and family therapist licensure candidate."

11

12 NEW SECTION. Section 9. Effective date. [This act] is effective July 1, 2021.

13

- END -